

Honorable John C. Coughenour

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ZANGO, INC.,

Plaintiff,

v.

KASPERSKY LAB, INC.,

Defendant.

No. C-07-0807-JCC

**DECLARATION OF
STEPHEN ORENBERG
SUPPORTING KASPERSKY
LAB’S RESPONSE TO THE
COURT’S MINUTE ORDER OF
JULY 31, 2007**

I, Stephen Orenberg, declare as follows:

1. I am the President and sole owner of Kaspersky Lab, Inc., (“Kaspersky USA”). I founded the company in 2004. I have personal knowledge of the facts discussed below.

2. Kaspersky USA distributes (but does not develop or maintain) Internet security software developed by Kaspersky Lab ZAO, based in Moscow, Russian Federation (“Kaspersky Moscow”). The Kaspersky Internet security software products are known as “Kaspersky Internet Security,” or “KIS” for short, and “Kaspersky Anti-Virus,” or “KAV” for short (collectively, “Kaspersky Internet security software”).

3. After being downloaded and installed by Kaspersky’s customers, the Kaspersky Internet security software regularly reaches out to communicate with online

1 servers to update the Kaspersky Internet security software's database of suspect code (e.g.,
2 viruses, adware, spyware, and other malware).

3 4. Kaspersky Moscow maintains an online database of suspect code. Kaspersky
4 Moscow virus analysts discover about 200-300 new instances of suspect code every day.
5 Kaspersky Moscow updates its database of suspect code about once an hour to include new
6 signature files to protect customers from suspect code. *See* Exhibit A, Kaspersky Antivirus
7 Database Updates Web-Page.

8 5. Kaspersky Moscow maintains this database of suspect code on multiple
9 online update servers worldwide. After a customer installs the Kaspersky Internet security
10 software, the software connects to the Internet to communicate with the Kaspersky Moscow
11 online update servers, according to a specified schedule, to update the software's version of
12 the database of suspect code. A customer may configure the Kaspersky Internet security
13 software to communicate with the online update servers via the Internet as often as once per
14 hour.

15 6. Customers may configure their Kaspersky Internet security software to
16 automatically communicate with the online update servers at regular intervals. Customers
17 may also manually command their Kaspersky Internet security software to immediately
18 communicate with the online update servers to update the software's database. *See* Exhibit B,
19 Kaspersky Software User Guide Excerpts.

20 7. Regularly updating the Kaspersky Internet security software is important
21 because new suspect code that may pose problems for Kaspersky customers is created
22 constantly. For example, Zango's own practices still may be causing problems for Internet
23 users and may still violate the terms of Zango's settlement with the Federal Trade
24 Commission. *See* Exhibit C, *Zango Practices Violating Zango's Recent Settlement with the*
25 *FTC*, by Benjamin Edelman. It is more important than ever that Kaspersky and other anti-
26 malware companies be free to advise customers about the practices of Zango and similar
27

1 companies so that customers can make informed choices about their computer privacy and
2 security.

3 PURSUANT TO 28 U.S.C. § 1746, I DECLARE UNDER PENALTY OF PERJURY
4 THAT THE FOREGOING IS TRUE AND CORRECT.

5 EXECUTED ON AUGUST 7, 2007.

6 By /s/ Stephen Orenberg

7 Stephen Orenberg
8 President
9 Kaspersky Lab, Inc.

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CERTIFICATE OF SERVICE

I certify that on August 7, 2007, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel of record:

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In addition, paper copies of the foregoing document will be mailed by United States Postal Service to non CM/ECF participants, if any.

/s/ Bruce E. H. Johnson

Bruce E.H. Johnson, WSBA No. 7667